IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Writ Petition No. 6044 of 2001 (S/S)
(Old No. 16785 of 1996)

Rajeev Singh S/o Shri Khajan Singh
R/o Fauzi Markota
Post Office- Rudrapur
District Nainital …Petitioner.

Versus

1. The Deputy Director of Education
   Kumaon Division, Nainital
2. The Additional Director of Education
   Lucknow, Uttar Pradesh
3. The Additional Director of Education (HILL)
   Camp Office, 18 Park Road
   Lucknow Uttar Pradesh
4. The Director of Education
   Government of Uttaranchal
   Ramnagar, District Nainital
5. Additional Director of Education
   Government of Uttaranchal
   Ramnagar, District Nainital
6. District Basic Education Officer
   District Udham Singh Nagar …Respondents

Sri M.C. Pandey, learned counsel for the petitioner
Shri Paresh Tripathi, learned standing counsel for the State.

Hon'ble B.C. Kandpal, J.

By means of this writ petition a relief has been sought in the nature of mandamus directing the respondents to appoint the petitioner on the post of Farm Inspector Group- I w.e.f 09.09.1983 and to pay the dues of salary from the aforesaid date.

Brief facts giving rise to this petition are that one Lallan Singh was working as Farm Inspector who died in the year 1981 and since then the post of Farm Inspector fell vacant.

In the year 1983 the respondents issued a report for filling the said post and the petitioner applied for his appointment on that post on 09.09.1983. Thereafter, the petitioner was appointed on the post of Farm Inspector on 09.09.1983 by the respondent No. 2, but in spite of the clear

order of appointment on the post of Farm Inspector, the respondent No. 1 i.e. Deputy Director of Education appointed the petitioner to the post of Assistant Teacher and Mohan Lal whose educational qualification was only intermediate, was appointed on the post of Farm Inspector. Mohan Lal was subsequently removed from the post of Farm Inspector. But even after this, the petitioner was not appointed on the post of Farm Inspector and he was allowed to continue only on the post of Assistant Teacher. The petitioner has made several representations in this regard but all in vain, hence this writ petition.

Heard learned counsel for the petitioner as well as learned standing counsel for the State and perused the record.

The respondents have filed their counter affidavit and thereafter the petitioner has also filed the rejoinder affidavit.

The record reveals that the petitioner has not filed alleged appointment letter dated 09.09.1983 on the basis of which he has claimed to have been appointed on the post of Farm Inspector. As far as the appointment of the petitioner on the post of Farm Inspector is concerned, the same has been denied by the respondents and it has been pleaded therein that the petitioner was given the appointment on the post of Assistant Teacher only and not on the post of Farm Inspector.

The record further reveals that the Mohan Lal had never been appointed on the post of Farm Inspector, but he was simply given the charge of Farm Inspector on 02.07.1979 as the Farm Inspector died on 31.05.1979. Therefore, a temporary arrangement was made on the post of Farm Inspector by giving the charge to on Sri Mohan Lal.

It also reveals from the record that the appointment on the post of Farm Inspector is made after the name is recommended from the Public Service Commission and since in the instant case, the petitioner never been appointed on the post of Farm Inspector on the basis of the recommendation made by Public Service Commission, therefore, there is no question that the petitioner had ever been appointed on the post of Farm Inspector as the post of Farm Inspector is to be filled by the Public

Service Commission, therefore, the respondent No. 1 had no power to appoint anyone on the post of Farm Inspector.

As the petitioner has never been appointed on the post of Farm Inspector after having been recommended his name from the Public Service Commission, therefore, it cannot be said by any stretch of imagination that the petitioner had ever been appointed on the post of Farm Inspector.

For the reasons stated above, the writ petition is devoid of any merit and is liable to be dismissed.

Accordingly, the writ petition is dismissed.

(B.C. Kandpal, J.)

14.07.2005
ASWAL